

LFC Requester:**Julia Downs****AGENCY BILL ANALYSIS
2016 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:****LFC@NMLEGIS.GOV***and***DFA@STATE.NM.US***{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}**Check all that apply:*

Original ☐ Amendment ☒
 Correction ☐ Substitute ☐

Date 2/3/16**Bill No:** HJR 13a**Sponsor:** D. Adkins and P. Ruiloba**Agency Code:** 305**Short** Denial of Bail to Certain**Person Writing** Steven Johnston**Title:** Defendants**Phone:** 505-222-9197 **Email** sjohnston@nmag.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Relates to HJR13. Conflicts with SJR1 and HJR20

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

HJR13 is a resolution proposing to make changes to Article 2, Section 13 of the New Mexico Constitution, providing courts the authority to deny bail to new classes of defendants. The present operative version of Article 2, Section 13 only permits courts to deny bail to those charged with a capital offense or for limited times (up to 60 days) to certain categories of repeat offenders or those charged with committing crimes using a deadly weapon. The judiciary committee has considered HJR13 and recommends that it DO PASS, with five alterations. It is those alterations contained in the judiciary committee's amendment that are the focus of this analysis.

BILL SUMMARY

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

The first three changes recommended by the judiciary committee change the title of the resolution, but do not affect the meaning of the proposed legislation.

The fourth recommended change would permit courts to deny bail to defendants regardless of whether the court is a court of record. Thus, a magistrate court would be permitted to deny bail to a defendant, provided it was satisfied by clear and convincing evidence that the defendant was a flight risk or a danger to any other person or the community.

The last recommended change would permit a court to deny bail in the event that the court found by clear and convincing evidence that the defendant was a flight risk OR a danger to any other person. The previous version of the resolution appeared to require courts to find by clear and convincing evidence that a defendant was both a flight risk and a danger before denying the defendant bail. After this recommended change, either finding will suffice alone.

FISCAL IMPLICATIONS**SIGNIFICANT ISSUES**

The judiciary committee's recommended changes do not appear to raise any issues that were not previously addressed in this agency's original analysis of HJR 13.

PERFORMANCE IMPLICATIONS**ADMINISTRATIVE IMPLICATIONS**

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS